

**CITY AND COUNTY OF HONOLULU
DEPARTMENT OF CUSTOMER SERVICE
BUSINESS LICENSE – SPECIAL SERVICES SECTION
P.O. BOX 30350
HONOLULU, HAWAII 96820
PH: 768-2540**

AUCTIONEER

Please resubmit with the following items:

- **Signed** Application for Business, Professional, Occupational License form (CS-L(SS)30). Do not complete form. Only signature is required on this form.
- Completed Business License Information worksheet/ Signed Acknowledgement of receipt
- **Notarized** Auctioneer's Bond in the amount of \$3,000 (to be acknowledged).
- License/Permit fee (refer to chart below)
Check or money order payable to the City and County of Honolulu. License will be mailed out to you.

PRORATED BUSINESS LICENSE FEES (FISCAL YEAR SCHEDULE)

IF NOT RECEIVED BEFORE THE END OF THE CURRENT MONTH, THE FEE
FOR THE FOLLOWING MONTH WILL APPLY

June	13 Months	\$108.33
July	12 Months	\$100.00
August	11 Months	\$91.67
September	10 Months	\$83.33
October	9 Months	\$75.00
November	8 Months	\$66.67
December	7 Months	\$58.33
January	6 Months	\$50.00
February	5 Months	\$41.67
March	4 Months	\$33.33
April	3 Months	\$25.00
May	2 Months	\$16.67

NOTE: Fiscal year begins in July and ends in June of the following year.

Business License-Information Worksheet
Phone: 768-2540

Name of Applicant: _____

Name of Business (DBA): _____

Address: _____

Mailing Address: _____
(If different from residence)

Business Phone number: _____ Type of Business: _____

Type of Ownership: ☐ Sole Proprietorship ☐ Partnership (List Partners)

☐ Corporation

☐ LLC

Name of Corporation: _____

ACKNOWLEDGEMENT OF RECEIPT

I, _____, hereby acknowledge receipt of section 445 of the Hawaii Revised Statutes (HRS) and Section 41-2.1 through 41-2.12 of the Revised Ordinance of Honolulu (ROH), pertaining to the regulation Auctioneers.

Date

Signature

- Retain copy of Statutes
- Submit this signed acknowledgement with your application

PART II. AUCTION

Note

Sections 445-21 to 38 designated as Part II by L 1990, c 164, §28.

Assessment under §26H-4 removed. L 1992, c 232, §1.

§445-21 Fee. The annual fee for a license to sell goods, wares, merchandise, or other property at auction, shall be \$100 for each taxation district. [L 1896, c 64, §25; RL 1925, §1973; am L Sp 1932 2d, c 66, §1; RL 1935, §2417; RL 1945, §7018; RL 1955, §155-18; HRS §445-21; am L 1990, c 164, §12]

§445-22 Public auction unlawful when. It shall be unlawful for any person to sell, offer for sale, or expose for sale at public auction, any personal property at any place other than in a public auction room, except:

- (1) Household furniture, vehicles, automobiles, machinery, livestock, and such bulky articles as are usually sold in warehouses or places other than auction rooms;
- (2) Sales made under the direction of any court;
- (3) Sales of any personal property belonging to the State or any county;
- (4) A bona fide sale of a stock of merchandise, where the creditors of the owner thereof are engaged in the legitimate closing out of the stock;
- (5) Sales by hawkers on the street or peddlers from vehicles;
- (6) Sales by persons selling fruit, fish, seafood products, vegetables, butter, eggs, or other farm or ranch produce; or
- (7) A bona fide sale of a stock of merchandise, where the owner thereof is engaged in a legitimate closing out of the stock and has been engaged in business at a specified location in the State for not less than six months immediately preceding the commencement of any such sale; provided that the owner, before commencing any such sale, shall affix to each article to be sold a tag designating the article by serial number, and file with the county treasurer a true and sworn statement containing a detailed list and inventory of the stock, which statement shall include:
 - (A) A description of each article to be sold sufficient to identify the same;
 - (B) The article's serial number;

- (C) The article's cost price; and
- (D) The approximate date of the article's receipt by the owner, if received by the owner not more than ninety days prior to the date of the statement.

Upon conclusion of sale, the owner shall immediately file with the treasurer a true and sworn statement containing a detailed list and inventory of such stock as has been sold at and during the sale, which statement shall include a description of each article sold sufficient to identify the same, the article's serial number, and the price received therefor.

The treasurer, at any time prior to the filing of the final statement with the treasurer, or within ten days thereafter, shall require the owner to file with the treasurer the invoices and bills of lading of any articles in the stock that appear from the preliminary statement to have been received by the owner within three months prior to the first day of the sale. The statements, invoices, and bills of lading shall be open to inspection by any interested person upon application to the treasurer. The sale at public auction shall be only of the stock on hand at the time of filing the statement with the treasurer, and the stock shall not be augmented or replenished in anticipation of the auction sale, or pending or during the sale. The auction sale shall be held on successive days, Sundays and legal holidays excepted, and shall not continue for more than thirty days within the period of one year. Failure to comply with any of the foregoing provisions shall be deemed prima facie evidence that the sale was not for the legitimate purpose of closing out the stock.

For the purposes of this chapter, the term "public auction room" means a place designated by a licensed auctioneer in the manner set forth in section 445-29, as the place for holding auction; provided that the treasurer of any county may give a special permit to any regularly licensed auctioneer to conduct the sale of pictures, paintings, furniture, books and bric-a-brac, or personal property under foreclosure of mortgage, at a place other than a public auction room. [L 1923, c 177, pt of §1; RL 1925, §1974; am L 1925, c 195, pt of §1; am L 1931, c 190, pt of §1; RL 1935, §2418; RL 1945, §7019; am L 1951, c 196, §1; RL 1955, §155-19; HRS §445-22; gen ch 1985; am L 1993, c 272, §1]

§445-23 Hours for auctions. No auction sale of goods, wares, and merchandise shall be conducted between the hours of 9:00 o'clock in the evening and 8:00 o'clock in the morning, and no such auction of any nature or description shall be conducted during the months of November and December of any year; provided that this section shall not apply to:

- (1) Sales of household furniture, vehicles, automobiles, machinery, livestock, and like bulky articles;
- (2) Any sale made under the direction of any court;
- (3) Sales of any personal property belonging to the State or any county;
- (4) A bona fide sale of a stock of merchandise, where the creditors of the owner thereof are engaged in the legitimate closing out of the stock;
- (5) Sales by hawkers on the street or peddlers from vehicles;
- (6) Sales by persons selling fruits, fish, seafood products, vegetables, butter, eggs, or other farm or ranch produce; or
- (7) Auctions held in public auction rooms that have been established for six months or more. [L 1925, c 195, pt of §1; am L 1933, c 145, §1; RL 1935, §2419; RL 1945, §7020; RL 1955, §155-20; am L 1965, c 183, §1; HRS §445-23; am L 1993, c 272, §2]

§445-24 Fictitious bids. At any auction sale it shall be unlawful for any person to procure any person to make fictitious bids, or to conspire with any person to make any fictitious bid, or knowingly to permit any person to make a fictitious bid; or for any auctioneer fictitiously to raise any bid oneself; or for any person to act as a by-bidder, or what is commonly known as a "capper", "booster", or "shiller", or offer to make any false or fictitious bid, or pretend to bid for, or pretend to buy, any article sold or offered for sale. [L 1925, c 195, pt of §1; RL 1935, §2420; RL 1945, §7021; RL 1955, §155-21; HRS §445-24; gen ch 1985]

§445-25 Description of goods sold considered warranties. Any person selling, disposing of, or offering for sale at public auction any stock of merchandise for the purpose of closing out the same as provided in section 445-22, shall, in describing the same, be truthful with respect to the cost, character, quality, kind, and description of the same, and such descriptions shall, for the purpose of the sale be considered as warranties. [L 1931, c 190, pt of §1; RL 1935, §2421; RL 1945, §7022; RL 1955, §155-22; HRS §445-25]

§445-26 Auction at places other than auction room; mock auctions. It shall be unlawful for any person, other than a licensed auctioneer to hold, conduct, carry on, or maintain any auction room or place for holding public auction sales, or to advertise or hold oneself out to the public as an auctioneer, or to conduct, carry on, or maintain any sale of goods by public auction; and it shall be unlawful to maintain, carry on, or conduct any mock auction, or to advertise or represent as an auction that which is or will be a sale other than auction. [L 1923, c 177, pt of §1; RL 1925, §1975; am L 1933, c 145, §2; RL

1935, §2422; RL 1945, §7023; RL 1955, §155-23; HRS §445-26; gen ch 1985]

445-27 Penalty. Any person violating any of the provisions of sections 445-22 to 445-26, shall be fined not more than \$500 and the person's auctioneer's license shall be subject to forfeiture at the discretion of the court. Each day that any of the above specified sections are violated constitutes a separate offense, punishable as in this section provided. [L 1923, c 177, pt of §1; RL 1925, §1977; am L 1925, c 195, pt of §1; am L 1931, c 190, pt of §1; RL 1935, §2424; RL 1945, §7026; RL 1955, §155-24; HRS §445-27; gen ch 1985]

§445-28 Place of public auction room. It shall be unlawful for any licensed auctioneer, for the purpose of selling, or exposing for sale, property other than the property duly listed in the statement filed with the county treasurer, as required by section 445-22, to establish a public auction room if a closing-out sale has been conducted on the place, or if property is offered for sale by public auction which has been held for sale on the place, at any time within one year preceding the commencement of the auction, unless sixty days have elapsed after the last day on which the closing-out sale has been conducted, or sixty days have elapsed after the last day on which an auction sale has been conducted in accordance with section 445-22, whichever date is the later. [L 1941, c 155, §1; RL 1945, §7024; am L 1951, c 196, §2; RL 1955, §155-25; HRS §445-28]

445-29 Designation of place for business. Every licensed auctioneer shall file with the treasurer of the county in which the auctioneer is licensed, a statement in writing signed by the auctioneer designating the auctioneer's place for holding auction in the county. Upon any change in location, the auctioneer shall immediately file a new designation. [L 1923, c 177, pt of §1; RL 1925, §1976; RL 1935, §2423; RL 1945, §7025; RL 1955, §155-26; HRS §445-29; gen ch 1985]

445-30 Record books. Every auctioneer shall keep and preserve a record book in which shall be entered:

- (1) A detailed list and description of the property received for sale;
- (2) The name of the person from whom, or on account of whom the same is received;
- (3) The date upon which the same is received;
- (4) The date upon which the same is sold;
- (5) The price for which each article is sold;
- (6) The name of the person to whom each article is sold;

which record shall, during the regular business hours be open to the inspection of any person desiring to see the same. Every such entry shall be made immediately after each transaction required to be recorded. [L 1896, c 64, §27; RL 1925, §1978; RL 1935, §2425; RL 1945, §7027; RL 1955, §155-27; HRS §445-30]

§445-31 Bond. Every person, upon receiving an auction license, shall give a bond to the treasurer in the penal sum of \$3,000, if the license is for the district of Honolulu, and in the penal sum of \$500 for other districts, with good and sufficient surety or sureties to be approved by the treasurer, conditioned:

- (1) That the person will faithfully and truly keep the records required by section 445-30;
- (2) That the person will faithfully, promptly, and truly account to all persons for whom the person may sell property, and promptly pay to them all sums received by the person for sales of the same, after deducting therefrom the person's commissions and expenses;
- (3) That the person will not sell goods, wares, merchandise, or other property, except at public auction;
- (4) That the person will otherwise in all things conform to the laws relating to auctioneers. [L 1896, c 64, §28; RL 1925, §1979; RL 1935, §2426; RL 1945, §7028; RL 1955, §155-28; HRS §445-31; gen ch 1985]

§445-32 Suit to enjoin violation and action for damages. Any person, firm, private corporation, incorporated or unincorporated trade association, may maintain a suit to enjoin a continuance of any act in violation of sections 445-22 to 445-31 and, if injured thereby, have recovery of damages. If in any such suit the court finds that the defendant is violating or has violated any of the sections, it shall enjoin the defendant from a continuance thereof. It shall not be necessary that actual damages to the plaintiff or petitioner be alleged or proved in order to obtain the injunction.

No proceeding shall be instituted for an injunction unless or until plaintiff or petitioner has notified the defendant of the plaintiff's or petitioner's intention to file the proceeding unless the defendant ceases and desists from continuing to act in violation of any of the sections, the notice to be given at least twenty-four hours previous to the filing of any action. No injunction shall issue in the event that the defendant ceases violating the sections upon the receipt of the notice, but the giving of the notice or the bringing of a suit or action under this section shall not prevent the institution or continuance to completion of a prosecution under section 445-27, or of a suit under section 445-33. [L 1951, c 196, §3; RL 1955, §155-29; HRS §445-32; gen ch 1985]

§445-33 Suit on bond. The treasurer or, by the treasurer's written consent, any person whose property is sold by any auctioneer, concerning which property a record has not been kept

as required by section 445-30, or concerning which the auctioneer has otherwise failed to fulfill the terms of the auctioneer's bond, may prosecute the auctioneer under the auctioneer's bond, and recover thereon any actual loss caused to the treasurer or person or sum due to the treasurer or person by the auctioneer, and also the sum of \$5 to the use of the treasury for each item by section 445-30 required to be entered in the record which is omitted therefrom, or which is entered therein incorrectly; and the license of the auctioneer may, in the discretion of any judge or court, be canceled. [L 1896, c 64, §29; RL 1925, §1980; RL 1935, §2427; RL 1945, §7029; RL 1955, §155-30; HRS §445-33; gen ch 1985]

§445-34 Suit at whose cost. In case action on the bond is brought by any person other than the treasurer, the action shall be in the name and at the sole cost, charge, and expense of the plaintiff. [L 1896, c 64, §30; RL 1925, §1981; RL 1935, §2428; RL 1945, §7030; RL 1955, §155-31; HRS §445-34]

§445-35 Auctioneer's charges. Every auctioneer may charge a commission at the rates hereinafter set forth upon all sales and collections made by the auctioneer; and the auctioneer may also charge the actual amounts paid by the auctioneer for advertising the sale of any property sold and any other expenses that may be especially agreed upon between the auctioneer and the owner of the property to be sold. The auctioneer may deduct such commissions and expenses from proceeds of any such sales. The rates of commissions are as follows:

- (1) Upon all sales of personal property, not more than ten per cent;
- (2) Upon all sales of real property, not more than five per cent. [L 1896, c 64, §31; RL 1925, §1982; RL 1935, §2429; RL 1945, §7031; am L 1951, c 186, §1; RL 1955, §155-32; HRS §445-35; gen ch 1985]

§445-36 Auctioneer may sue. Every auctioneer may sue in the auctioneer's own name any person purchasing property sold by the auctioneer at auction, whether to enforce specific performance of the sale or to collect the purchase price thereof. [L 1896, c 64, §32; RL 1925, §1983; RL 1935, §2430; RL 1945, §7032; RL 1955, §155-33; HRS §445-36; gen ch 1985]

§445-37 Public officers, etc., may sell without license. Nothing in any law relating to auction licenses shall extend to or affect sales at auction made by the sheriff, deputy sheriff, police officer, poundmaster, tax collector, or other public officer; or by any personal representative, guardian, assignee, or other person who is required or authorized by law

to sell any property at auction, and who shall under such authority sell such property; or by a charitable organization. [L 1896, c 64, §33; RL 1925, §1984; am L 1932 2d, c 63, §4; RL 1935, §2431; RL 1945, §7033; RL 1955, §155-34; am L 1963, c 85, §3; HRS §445-37; am L 1971, c 65, §1; am L 1976, c 200, pt of §1; am L 1989, c 211, §10; am L 1990, c 281, §11]

§445-38 Auctioneer's agent. Any auctioneer may appoint any agent or assistant to act for the auctioneer in the conduct of the auctioneer's auction business, for all of the acts of whom the auctioneer shall be responsible in the same manner as though they were done personally by the auctioneer. [L 1896, c 64, §34; RL 1925, §1985; RL 1935, §2432; RL 1945, §7034; RL 1955, §155-35; HRS §445-38; gen ch 1985]